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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Amendment of Section 2.106 )  
of the Commission's Rules )  
to Allocate Spectrum at 2 GHz for )  
Use by the Mobile-Satellite Service )  
\_\_\_\_\_ )

ET Docket No. 95-18  
RM-7927

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SUPPLEMENTAL COMMENTS OF L/Q LICENSEE, INC.

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## SUMMARY

L/Q Licensee, Inc. (LQL), recommends that the Commission adopt a gradual transition plan for reallocation of the 1990-2025/2165-2200 MHz bands for the Mobile-Satellite Service (MSS). LQL's plan slightly modifies COMSAT's plan, and would not require MSS licensees to fund relocation of the incumbent microwave stations in the bands. The Commission should adopt such a gradual transition plan for reallocation of the 2 GHz bands in order to avoid imposition on MSS licensees of what would be extraordinary and unwarranted costs for relocation of incumbent microwave stations.

First, to avoid complicating migration of microwave stations, the Commission should immediately prohibit the filing of new applications for broadcast auxiliary stations (BAS) or fixed microwave stations (FS) in the 1990-2025/2165-2200 MHz bands for operation on a primary basis pending the adoption of a Report and Order in this proceeding.

Second, when it adopts an allocation at 2 GHz for MSS, the Commission should announce that all BAS and FS stations authorized or with an application on file to operate in the frequencies as of the date of the freeze order will be required to operate on a secondary basis after January 1, 2005.

Third, to encourage relocation, the Commission should prohibit renewals, except on a secondary basis, for BAS and FS stations which have been authorized to operate in the reallocated 2 GHz bands prior to the freeze order with license terms which expire prior to January 1, 2005.

Fourth, the Commission should initiate a proceeding to allocate replacement spectrum for BAS licensees currently authorized to use the 1990-2025 MHz band as a substitute for the 2110-2145 MHz band proposed in the Notice of Proposed Rule Making in this proceeding.

Fifth, the Commission should issue a Notice of Inquiry or Notice of Proposed Rule Making to address implementation of Resolution COM5-10 (WRC-95) at the earliest possible time.

The Commission can satisfy the needs of 2 GHz incumbents and the public by adopting the gradual transition plan for the new MSS allocation outlined above. Pursuant LQL's proposal, a seamless and invisible relocation of existing FS and BAS stations can be effectuated without disrupting service to the public and without imposing extraordinary and unwarranted expense on MSS licensees. Such a plan would effectively promote the development of MSS at 2 GHz.

LQL agrees with COMSAT's recommendation that the Commission set an example for the world by implementing the gradual transition arrangements outlined in Resolution COM5-10. This resolution represents a consensus among the countries at WRC-95 that the needs of both MSS and incumbent microwave operators can be fulfilled through a gradual transition process. Despite the divergent views in this proceeding, adoption of this gradual transition plan would be consistent with the Commission's domestic spectrum management responsibilities. It would also promote the United States' leadership role in developing and implementing new satellite technology.

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To: The Commission

SUPPLEMENTAL COMMENTS OF L/Q LICENSEE, INC.

Pursuant to the Commission's Public Notice (DA 96-577), L/Q Licensee, Inc. ("LQL"), hereby submits its comments on the "Supplemental Comments of COMSAT Corporation" regarding the proposed allocation for the Mobile-Satellite Service (MSS) in this proceeding. See Notice of Proposed Rule Making, 10 FCC Rcd 3230 (1995) ("NPRM").

LQL recommends that the Commission adopt the gradual transition plan outlined below for reallocation of the 1990-2025/2165-2200 MHz bands for MSS. LQL's plan slightly modifies the plan suggested by COMSAT, but, like COMSAT's plan, would not require MSS licensees to fund relocation of the incumbent users in the bands. As COMSAT notes, the cost reimbursement plan proposed by the Commission in the NPRM "is unnecessary and would impose an impossible economic burden on the MSS industry which is very likely to jeopardize the delivery of a valuable, competitive service to the public." COMSAT Supp. Comments, at 12. LQL agrees, and strongly urges the Commission to adopt the

transition plan for 2 GHz outlined herein in order to avoid imposition of what would be extraordinary and unwarranted costs on MSS licensees in these bands.

### BACKGROUND

LQL is a wholly-owned subsidiary of Loral/QUALCOMM Partnership, L.P. ("LQP"), and holds the license to construct, launch and operate the Globalstar™ low-earth orbit satellite telecommunications system.<sup>1</sup> See Loral/QUALCOMM Partnership, L.P., 10 FCC Rcd 2333 (1995). When operational, Globalstar™ will provide MSS in both domestic and global markets using the 1.6/2.4 GHz bands.

During the formal comment period in this docket, LQP filed initial Comments and Reply Comments on the proposals in the NPRM, expressing its support for the Commission's proposed allocation for MSS at 2 GHz. LQP explained that the anticipated demand for authorized Globalstar™ services as well as for MSS generally would exceed the capacity of first-generation MSS Above 1 GHz systems in approximately 10 years, and that there would be a definite need for the proposed allocation of 70 MHz for MSS at 1990-2025 MHz (earth-to-space) and 2165-2200 MHz (space-to-earth). See LQP Comments, at 3-6.

Like COMSAT and other members of the satellite industry, LQP recommended that the Commission decline to adopt its proposal in the NPRM requiring MSS licensees to reimburse relocation costs of the two incumbent

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<sup>1</sup> The Globalstar™ license was assigned to LQL pursuant to grant of authority dated September 15, 1995 (File No. 148-SAT-AL-95).

terrestrial services in the frequencies proposed for reallocation. As the comments in this proceeding confirmed, relocation of microwave services in the 1990-2025/2165-2200 MHz bands would involve burdensome costs and administrative procedures which may adversely impact both the economic viability and implementation schedule of U.S. licensed MSS systems in these frequencies. See LQP Reply Comments, at 5-11.

To avoid these burdens while also ensuring that the bands become available for MSS expeditiously, LQP recommended a transition plan for broadcast auxiliary ("BAS") and fixed service ("FS") stations which would accommodate a gradual transition to MSS in the proposed allocation. See LQP Comments, at 8-11. LQP also recommended that the Commission convene a Federal Advisory Committee which would allow the three affected industries to study relocation and transition issues and reach a consensus solution. See id. at 12-14. LQL continues to believe that these recommendations serve the goals of this proceeding and the Commission's spectrum management responsibilities.

In its Supplemental Comments, COMSAT has outlined its revised plan for gradual relocation of BAS and FS stations and the development of MSS at 2 GHz based on Resolution COM5-10 adopted at the 1995 World Radiocommunication Conference ("WRC-95"). Although LQL believes that modifications to COMSAT's plan are desirable, COMSAT's Supplemental Comments provide a framework to develop an effective transition plan consistent with the objective of this proceeding "to create opportunities to provide the public, especially rural Americans, with

access to new and competitive services and technologies; stimulate economic development; and, create high technology jobs in the United States." NPRM, ¶ 1.

I. THE TRANSITION PLAN ADOPTED FOR 2 GHZ MUST NOT ONLY PROMOTE ENTRY OF MSS BUT ALSO FACILITATE RELOCATION OF BAS AND FS FROM THE PROPOSED ALLOCATION.

LQL agrees with COMSAT that the Commission must adopt a gradual transition plan for BAS and FS to clear the 1990-2025/2165-2200 MHz bands for MSS consistent with Resolution COM5-10 (WRC-95). COMSAT's plan is focused on clearing the bands for MSS; LQL recommends modifications to accommodate all three industries. In short, to facilitate entry of MSS into the proposed allocation, the Commission must ensure migration of existing BAS and FS users from the bands. It is with these objectives in mind that LQL proposes the following steps to implement the transition to MSS operations at 2 GHz in connection with a Report and Order in this proceeding adopting an allocation for MSS at 1990-2025/2165-2200 MHz.

Step 1: The Commission Should Freeze New BAS and FS Applications.

The Commission should immediately prohibit the filing of new applications for BAS or FS stations in the 1990-2025/2165-2200 MHz bands for operation on a primary basis pending the adoption of a Report and Order in this proceeding. The Commission should take this action to avoid complicating clearing the bands any



further.<sup>2</sup> Whether or not the Commission requires MSS operators to reimburse incumbents for relocation expenses, imposition of an immediate freeze on acceptance of additional applications for primary operations of BAS stations and FS stations would facilitate an orderly transition of existing services to other frequency assignments.

Such a freeze order should not be held in abeyance pending adoption of a Report and Order. Because of the complexities of the issues regarding the allocation, substantial time may pass before an allocation order is issued. In the interim, additional station applications could be filed, including speculative applications, increasing the difficulty of transition.<sup>3</sup> If, for some reason, the allocation is not adopted, then, of course, the Commission could again accept applications for new stations. No party would be prejudiced by adoption of a freeze on new applications in these bands because there are alternative frequencies available for both BAS and FS applicants.<sup>4</sup> Moreover, substantial benefits may accrue to future MSS licensees and the public in the band by limiting such applications and therefore making the transition to MSS less complicated.

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<sup>2</sup> See Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (Notice of Proposed Rule Making), 7 FCC Rcd 1542, 1545 (1992).

<sup>3</sup> See id.

<sup>4</sup> See 47 C.F.R. § 74.602(a) (available frequencies for BAS stations); 47 C.F.R. § 21.701(a) (point-to-point microwave stations); 47 C.F.R. § 94.61(b) (private operational fixed microwave stations).

Step 2: The Commission Should Adopt an End Date for Primary Operations.

When it adopts an allocation at 2 GHz for MSS, the Commission should announce that all BAS and FS stations authorized or with an application on file to operate in the frequencies as of the date of the freeze order will be required to operate on a secondary basis after January 1, 2005. Such a notice would set an end date for the transition for existing users and provide an incentive for them to find alternative frequencies. For planning purposes, it would also provide a date certain by which MSS operators could anticipate unrestricted use of the bands both domestically and internationally.<sup>5</sup> Moreover, scheduling an end date for existing services in the bands is consistent with Resolution COM5-10, which recommends that FS stations be relocated to bands which do not overlap with the MSS allocation. See COMSAT Supp. Comments, at 8-11. The use of January 1, 2005 as the end date is appropriate because it coincides with the date of entry into force of the expanded allocations at 2 GHz for MSS in Region 2.<sup>6</sup>

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<sup>5</sup> Cf. Establishment of a Spectrum Utilization Policy For the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz, 54 RR 2d 1001, 1007 (1983) (providing five-year transition for terrestrial incumbents in 12 GHz band reallocated to DBS by 1983 RARC).

<sup>6</sup> In the International Table of Frequency Allocations, the 1980-2010 MHz and 2170-2200 MHz bands are available for MSS in all three ITU regions on January 1, 2000. Two band, including frequencies in the proposed U.S. allocation, 2010-2025 MHz and 2160-2170 MHz, are available for MSS in the U.S. and Canada on January 1, 2000, and in the rest of Region 2 on January 1, 2005, but not in the rest of the world. See Final Acts of WRC-95, Pt. I, at 135-37 (Geneva 1995). The 1980-1990 MHz band is allocated to PCS in the U.S. See Amendment of the Commission's Rules to Establish New Personal Communications Services, 8 FCC Rcd 7700 (1993), modified, Memorandum Opinion and Order, 9 FCC Rcd 4957 (1994).

Step 3: The Commission Should Freeze BAS and FS Renewals.

To encourage relocation, the Commission should prohibit renewals, except on a secondary basis, for BAS and FS stations which have been authorized to operate in the reallocated 2 GHz bands prior to the freeze order and have license terms which expire prior to January 1, 2005. With each application for license renewal filed for frequencies reallocated to MSS in the Report and Order in this proceeding, the applicant should be required to provide a plan for migration into another segment of the band allocated for BAS stations or relocated microwave stations. By thus restricting the right to renewal on reallocated frequencies, the Commission can gradually decrease the number of terrestrial stations and increase the usefulness of the MSS allocation until the reallocated bands become fully available for MSS by January 1, 2005.

Step 4: The Commission Must Allocate Replacement Spectrum for BAS.

The Commission should initiate a proceeding to allocate replacement spectrum for BAS licensees currently authorized to use the 1990-2025 MHz band. The Commission has already identified replacement spectrum for FS stations in the 2165-2200 MHz band in its Emerging Technologies proceeding.<sup>7</sup> To effectuate the MSS allocation, the Commission must find replacement spectrum for incumbent BAS stations. In the NPRM, the Commission proposed to relocate

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<sup>7</sup> See Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (Second Report and Order), 8 FCC Rcd 6495 (1993).

existing users of BAS Channels 1 and 2 to the 2110-2145 MHz band, which is currently paired with the 2160-2195 MHz band to provide FS stations with forward and return links. NPRM, ¶¶ 9-10. While the 2110-2145 MHz band may appear conveniently available for relocating BAS, its use is not feasible.

As COMSAT's Supplemental Comments point out, MSS and FS users can share in the 2165-2200 MHz band, but the same does not appear true for BAS and MSS. As a practical matter, this distinction means that the same timetable for relocation cannot apply to both BAS and FS. If the Commission's proposal to relocate BAS to 2110-2145 MHz were adopted, then prior or simultaneous relocation of the FS links paired with these frequencies in the 2160-2195 MHz band would be required. But, given the ability of MSS and FS to share, synchronization of these two relocations is not necessary, and relocating BAS stations in Channels 1 and 2 to 2110-2145 MHz would needlessly complicate reallocation of the spectrum for MSS.

Moreover, the ultimate result of relocating BAS stations to the 2110-2145 MHz band would be to nullify the coordination procedures adopted by WRC-95 in Resolution COM5-10. The resolution contemplates that MSS and FS stations will share the frequencies past January 1, 2000.<sup>8</sup> But, for MSS stations to operate in the downlink frequencies, BAS stations in the uplink frequencies must be relocated. Therefore, the Commission should find another set of frequencies for

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<sup>8</sup> Resolution COM5-10 states that Administrations should "ensure that unacceptable interference is not caused to fixed service stations notified and brought into use before 1 January 2000." Resolution COM5-10, ¶ 3 (WRC-95).

relocation of BAS to implement the gradual transition to MSS described in Resolution COM5-10.

For example, the Commission should consider as a possible alternative the 3650-3700 MHz band which is to become available for non-government use in 1999.<sup>9</sup> The Commission determined that this band would not be appropriate for relocation of fixed microwave stations because it would not provide sufficient separation between transmit and receive frequencies.<sup>10</sup> However, it did not consider whether it may be possible to accommodate relocated BAS stations in this spectrum with the existing government users as well as the limited international fixed satellite service use. In evaluating such alternatives to relocate BAS stations, the Commission should consider spectrum which may not be immediately available in all areas of the country, because there are five other BAS channels in the 2025-2110 MHz band as well as 10 BAS channels at 6875-7125 MHz, which should also be considered for relocation purposes. See COMSAT Supp. Comments, at 16 & n.28.

Step 5: The Commission Should Implement Resolution COM5-10.

In its initial Comments in this proceeding, LQP recognized that MSS systems could share the proposed downlink spectrum with existing FS stations based on its own studies of this sharing scenario. See LQP Comments, at 16. The

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<sup>9</sup> See Plan for Reallocated Spectrum, FCC 96-125, ¶¶ 52-55 (released Mar. 22, 1996).

<sup>10</sup> Id. at ¶ 55.

participants at WRC-95 agreed with ITU studies which supported this view, and adopted Resolution COM5-10 to implement them. COMSAT has explained in detail why and how this plan should be implemented in the United States.

COMSAT Supp. Comments, at 8-11 and Charts B-C. LQL concurs and recommends that the Commission issue a Notice of Inquiry or Notice of Proposed Rule Making to address implementation of Resolution COM5-10 at the earliest possible time.

## II. A GRADUAL TRANSITION PLAN FOR MSS AT 2 GHZ IS CONSISTENT WITH PRINCIPLES OF SOUND SPECTRUM MANAGEMENT.

"The radio spectrum is a precious national resource. Responsible stewardship of the spectrum is a primary mission of this Commission."<sup>11</sup> To achieve such "responsible stewardship," the Commission has exercised great care when reallocating spectrum to accomplish several goals: (1) to accommodate existing users, (2) not to disrupt service to the public, and (3) to promote use of the bands for the new service.<sup>12</sup> With respect to the allocation for MSS at 2 GHz, LQL believes that "responsible stewardship" requires that the Commission adopt a gradual and unified transition plan which will accomplish all three of these goals.

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<sup>11</sup> Separate Statement of Commissioner Susan Ness, Amendment of the Commission's Rules to Provide for Unlicensed NII/SUPERNet Operations in the 5 GHz Frequency Range, FCC 96-193 (released May 6, 1996).

<sup>12</sup> See Redevelopment of Spectrum, 7 FCC Rcd at 1545.

A. A Gradual Transition Plan Accommodates Existing Users, Protects the Public Interest and Promotes the Development of MSS at 2 GHz.

The Commission can satisfy the needs of 2 GHz incumbents and the public by adopting the gradual transition plan for the new MSS allocation as outlined above. Under LQL's proposal, a seamless and invisible relocation of existing FS and BAS stations can be effectuated without disrupting service to the public and without imposing extraordinary and unwarranted expense on MSS licensees. Moreover, by placing all incumbents on notice now that relocation for primary operations is required by 2005, the Commission would provide sufficient opportunities for incumbents to depreciate their investment in existing equipment and sufficient time to locate replacement spectrum.

The transition plans outlined by COMSAT and LQL also promote effective development of MSS at 2 GHz. Indeed, both plans would be more effective in promoting development of MSS at 2 GHz than the Commission's plan because LQL's and COMSAT's transition plans do not require imposition of the substantial cost and administrative burdens of FS relocation on MSS licensees.

Adoption of a gradual transition plan is not inconsistent with the transition plan adopted for Personal Communications Services ("PCS") at 2 GHz on which the Commission modeled its cost reimbursement proposal in the NPRM. The Commission's rules regarding reimbursement for microwave relocation costs by PCS licensees are triggered if interference to the incumbent FS station would

occur from operation of the PCS station.<sup>13</sup> As COMSAT discusses, Resolution COM5-10 provides a plan to enable MSS and fixed microwave stations to share the frequencies through coordination.<sup>14</sup> See COMSAT Supp. Comments, at 8-11. By adopting rules to permit a period of coordination between MSS and FS stations, the Commission can provide sufficient time for migration of FS stations while MSS operators develop their systems.

Furthermore, LQP pointed out in its comments that there are other substantial differences between PCS and MSS which justify different treatment of 2 GHz PCS and MSS licensees. See LQP Comments, at 16-20. For example:

- Unlike PCS, there are no set geographic boundaries for the MSS "service area" within the United States. Identifying the MSS licensee or licensees responsible for relocation would be difficult.
- The differing designs of MSS systems allow some licensees to share spectrum with each other while others require exclusive spectrum. Because a reimbursement plan may burden certain satellite system designs more than others, it would conflict with the Commission's general policy of leaving decisions regarding design of satellite systems to the applicant.<sup>15</sup>
- In the event that the Commission authorizes operation of foreign MSS systems at 2 GHz, it may be difficult to require such systems to

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<sup>13</sup> See 47 C.F.R. § 24.239; Amendment of the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, FCC 96-196, ¶ 37 (released Apr. 30, 1996).

<sup>14</sup> Because it does not appear feasible for MSS and BAS stations to share spectrum, COMSAT has suggested that BAS stations operating on Channel 1 (1990-2008 MHz) must vacate the band by January 1, 2000. See COMSAT Supp. Comments, at 16.

<sup>15</sup> Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile-Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, 9 FCC Rcd 1094, 1100-01 (1994)



pay relocation costs because the Commission does not "license" the space segment of such systems. Unless cost-sharing rules were adopted to account for their participation, foreign systems would have the competitive advantage of lower capital costs than U.S. licensed systems.

Avoiding such inequities requires adopting a gradual transition plan to MSS at 2 GHz, which does not require MSS licensees to reimburse incumbents for relocation costs. Moreover, the Commission should not adopt any plan which may place U.S. licensees at a competitive disadvantage in obtaining sufficient spectrum for global operation.<sup>16</sup> As the Commission recently stated, "We want competition in the U.S. market, but the first step is to ensure sufficient spectrum for the U.S. domestic MSS system to become an effective competitor "<sup>17</sup>

B.     The Commission's Transition Plan for 2 GHz Should  
          Provide a Model for the International Allocation for MSS.

LQL agrees with COMSAT's assessment that "it is critical that the United States set an example for the world by implementing the gradual transition arrangements provided for in the WRC-95 Final Acts." COMSAT Supp. Comments, at 21. Resolution COM5-10 represents a consensus among the countries at WRC-95 that the needs of both MSS and incumbent microwave operators can be fulfilled through a gradual transition process.

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<sup>16</sup> See Provision of Aeronautical Services via the Inmarsat System, FCC 96-161, ¶¶ 18-21 (released May 9, 1996).

<sup>17</sup> Id. at ¶ 19.

LQL urges the Commission to follow the international recommendation outlined in this resolution. As the Commission is aware, the three affected industries in the United States were unable to agree on a transition plan during the formal comment period in this proceeding prior to WRC-95. In Geneva, the conference developed a transition plan which accommodates the interests of FS and MSS. Despite the divergent views in the record of this proceeding, adopting the gradual transition plan outlined in Resolution COM5-10 as the model relocation plan for microwave stations in the 2 GHz MSS allocation would be fully justified as consistent with the Commission's domestic spectrum management responsibilities.

The gradual transition plan outlined above would not necessarily delay implementation of U.S.-licensed global satellite systems. The availability of these bands for global systems, whether licensed in the United States or elsewhere, is likely to be dependent upon action by other Administrations consistent with the transition outlined in Resolution COM5-10. Providing a model implementation plan for domestic purposes may, in fact, benefit U.S. licensees as they seek authority to operate in other countries. As COMSAT notes: "Successful implementation of the transition arrangements in the United States will go a long way to assist other countries, particularly developing countries, in planning for this process and, thereby, ensure that 2 GHz MSS systems become a global reality." See COMSAT Supp. Comments, at 22. The Commission has in the past

taken steps to stay in the forefront of satellite regulation, and there is every reason to continue to assume that role in this proceeding.<sup>18</sup>

### III. CONCLUSION

For the reasons set forth above, LQL recommends that the Commission adopt a gradual and unified transition plan for incumbent stations and MSS licensees in the 2 GHz bands consistent with the principles outlined above and in Resolution COM5-10 (WRC-95).

Respectfully submitted,

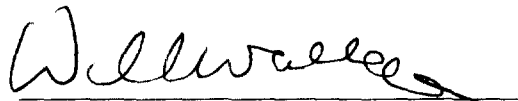
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<sup>18</sup> See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile-Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, 9 FCC Rcd 5936, 5941 (1994).

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Supplemental Comments of L/Q Licensee, Inc. was sent by hand delivery (indicated by \*) or by first-class mail, postage prepaid, this 17th day of May, 1996, to each of the following:

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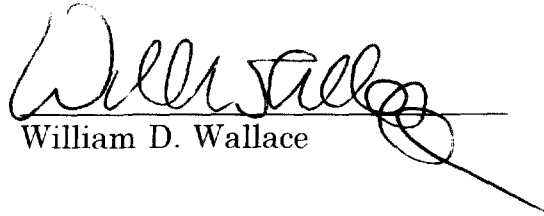
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